

**J & S Electric Company of Bossier City, Louisiana, Inc. and Dannie L. McGowin.** Case 17-CA-14691

August 5, 1991

**SUPPLEMENTAL DECISION AND ORDER**

BY MEMBERS CRACRAFT, DEVANEY, AND OVIATT

On April 12, 1990, the National Labor Relations Board issued a Decision and Order in this proceeding.<sup>1</sup> On March 6, 1991, the United States Court of Appeals for the Eighth Circuit, in an unpublished decision, entered judgment enforcing the Board's Order. A controversy having arisen over the amount of backpay due under the Board's Order, as enforced by the court, the Regional Director for Region 17 on May 6, 1991, issued and served on the Respondent by both certified and regular mail a compliance specification and notice of hearing, alleging the amounts of backpay due and owing to the discriminatees named in the specification. The Respondent failed to answer the compliance specification.

On June 11, 1991, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment. On June 13, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Section 102.56(c) of the Board's Rules and Regulations states, in relevant part:

(c) *Effect of failure to answer or to plead specifically and in detail to backpay allegations of specification.*—If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the alle-

gations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

The compliance specification states that unless an answer is filed within 21 days of service, "all of the allegations in the Compliance Specification shall be deemed to be admitted to be true and shall be so found by the Board." The compliance specification was properly served by both regular and certified mail on the Respondent. The certified letter was returned by the postal service to the Regional Office marked "unclaimed." It is well-established that a respondent's refusal or failure to claim certified mail cannot serve to defeat the purposes of the Act. E.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).

In the absence of good cause being shown for the Respondent's failure to file an answer to the compliance specification in accord with the provisions of Section 102.56 of the Board's Rules, we find the allegations of the specification to be true and grant the General Counsel's Motion for Summary Judgment. Accordingly, we find that the net backpay due to the discriminatees is as stated in the computations of the compliance specification, and we shall order the Respondent to pay those amounts.

**ORDER**

The National Labor Relations Board orders that the Respondent, J & S Electric Company of Bossier City, Louisiana, Inc., Bossier City, Louisiana, its officers, agents, successors, and assigns, shall make whole the discriminatees named below by payment to them of the amounts following their names, plus interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and accrued to the date of payment, minus tax withholdings required by law.

Dannie McGowin	\$10,016.04
Bill Nevins	5,096.72
Michael Lay	12,321.05
Jerry Kerr	149.84
Vernon Hobbs	157.84
Michael Defoor	149.84

<sup>1</sup> 298 NLRB No. 22.